GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department – Appeal Petition filed by Sri Bada Mohana Rao S/o Sankurudu, under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes)-Regulation of Issue of Community Certificates Act, 1993 (A.P. Act No.16/1993) against the Proceedings of the District Collector, East Godavari in cancelling his ST-Valmiki Community Certificate - Orders of the Government issued vide G.O.Ms.No.100, S.W.(CV.2) Dept., dt.31.05.2008 dismissing the appeal petition of the petitioner duly upholding the proceedings dated:09.03.2006 of the District Collector, East Godavari – WP.No.13444 of 2008 filed by the Appellant against the orders of the Government – Orders dt:08.11.2018 of Hon'ble High Court directing the Government to issue notice afresh giving the date of hearing to enable the Petitioner to appeal – Representation/Appeal filed by the Appellant/Petitioner – Allowed - Orders - Issued.

SOCIAL WELFARE (TW.CV.2) DEPARTMENT

G.O.Ms.No.33. Dated: 08.11.2021

Read the following:-

1. Proceedings of the District Collector, East Godavari Ref.C5 (M)/5257/94, dated: 09.03.2006.
2. Appeal Petition dt:21.03.2006 filed by Sri Bada Mohana Rao, S/o Sankurudu, Occ FBO, Yeleswaram Range, R/o Gondulu(V), Addateegal(M) East Godavari District, through his advocate.
3. G.O.Ms.No.100, S.W. (CV.2) Department, dt: 31.05.2008.
4. Orders of the Hon'ble APHC in WP No.13444/2008, dt:08.11.2018.
5. Representation/Appeal received from Sri Bada Mohan Rao, S/o Sankurudu, Gondulu(V), Addateegala(M), East Godavari Dist., dated: Nil.
6. Govt. Memo No.1326620/TW.CV.2/2021, dated 10.02.2021.
7. From the District Collector, East Godavari, Letter dt:15.06.2021.
8. Govt. Memo No.1326620/TW.CV.2/2021, dated 08.07.2021 and 04.08.2021.

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ORDER:

In the Proceedings 1st read above, the District Collector, East Godavari has issued orders cancelling the ST 'Valmiki' Community Certificate issued to Sri Bada Mohana Rao S/o Sankurudu.

2. Sri Bada Mohana Rao S/o Sankurudu has filed Appeal petition before the Government under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes)-Regulation of Issue of Community Certificates Act, 1993 (A.P. Act No.16/1993) against the Proceedings of the District Collector, East Godavari in cancelling his ST-Valmiki Community Certificate with a prayer to set aside the said proceedings of the District Collector, East Godavari.

3. In the G.O. third read above, Orders issued rejecting the appeal petition of the Appellant duly upholding the proceedings dated:09.03.2006 of the District Collector, East Godavari.

4. Aggrieved by the above orders of the Government, the appellant has filed WP.No.13444 of 2008 before the Hon'ble High Court and the Hon'ble Court has passed orders dated 08.11.2018 set-asiding the orders of the Government in G.O.Ms.No.100, dt: 31.05.2008 and directed the Government to issue notice afresh giving the date of hearing to enable the petitioner to appeal and pass appropriate orders as per law.

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5. In the representation 5th read above, Sri Bada Mohana Rao S/o Sankurudu has represented along with the court orders with a request to give him an opportunity as per the Court Orders to put forth his grounds before the appellant authority. He has been given an opportunity to submit his grounds in support of his claim of ST-Valmiki caste and parawise remarks along with connected records were called for from the District Collector, East Godavari in the Memo 6th read above. In the letter 7th read above, the District Collector, East Godavari has furnished para-wise remarks along with connected records.

6. The said Appeal Petition has been posted for hearing on 24.07.2021 and 23.08.2021 before the Hon'ble Appellate Authority duly informing the same to the Appellant and the Counsel for the Appellant in the Memos 8th read above. The appellants and their counsel have attended the said hearing on the said dates. On perusal of the records / the copies of evidences/ academic record/ grounds filed by the Appellant and the para-wise remarks submitted by the District Collector, East Godavari the Appellate authority has observed that;

I. The grounds put-forth by the appellant in support his claim of ST-Valmiki Community is as follows:

1. The order under appeal is contrary to law, weight of evidence and probabilities of the case.
2. The District Collector, as well as the DLSC failed to consider any of the documents filed by the appellant herein and conducted the enquiry in a biased manner and thereby declared that the appellant did not belong to Valmiki (ST) Community.
3. The District Collector ought to have declared the appellant and his family as ST in view of the documentary evidence i.e. the documents relating to the people who are having "Bada" surname in agency area of East Godavari District are being treated Valmikies.
4. The District Collector failed to see that the appellant herein established all the requirements that are required as per the circular issued by the District Collector dated:30.07.2004 wherein guide lines have been issued for verification of Valmiki caste in the Agency Areas.
5. The District Collector cancelled the caste certificate of the appellant inspite of producing ample documentary evidence to show that he belongs to Valmiki community.
6. The District Collector while canceling the caste certificate, failed to follow the procedure as contained in A.P. (SC, ST & BC) Regulation of Issuance of Community Certificate Act and the rules framed there under.

II. The District Collector, East Godavari has furnished the following remarks on the above grounds as follows:

1. The orders dated 09.03.2006 passed by the District Collector, East Godavari are in accordance with the law after giving due opportunities to the petitioner.
2. In the Elementary School records (L.A.E.School, Thimmapuram Admission Register) the caste of Bada Mohana Rao and his sister was recorded as Adi-Andhra Christian and they educated as Adi-Andhra Christian and later obtained "Valmiki" (ST) certificates to derive the benefits guaranteed to the real tribals. The family members of Sri. Bada Mohana Rao have also obtained Valmiki (ST) community certificates from MRO, Addateegala during 1990 by virtue of the circular instructions issued by the Collector in R.Dis.CS(M)/3779/87, dated:20-2-88 which were subsequently quashed by the Hon'ble High Court in WP.No.14817/88, dated:3-9-91.

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3. The caste of "Bada" surname people were recorded in the Birth and Death Registers of Gondolu and Thimmapuram Villages as Mala/ AdiAndhra/ Hraijan/Christian ever prior to and after the constitution - SCs and STs order, 1950 and it was no where recorded as Valmiki. Hence the ST caste certificate of the individual is bogus.
4. The circular instructions issued by the District Collector in 1988 were quashed by the High Court and stated that only the Parliament, which has got power to include or exclude from the list of STs notified by the President in accordance with the Article 342 Part-I. Accordingly the Collector issued instructions on 30-7-2004 that the certificate seeker should furnish information about their social, religious and cultural characterization of their community. The respondent is silent about their customs, traditions, deity, rituals and mode of marriage which are more conspicuous in determination of caste status.
5. On the recommendations of the DLSC, the District Collector, East Godavari gave several notices to the appellant through his advocate to attend before the Collector along with all the recorded documentary evidences in support of his caste claim. Though ample opportunity was given to the respondent he did not file any valid recorded documentary evidences to prove his caste claim as Valmiki (ST), though the burden of proof always lies on the individual. The DLSC, examined all the material evidence available as per rules and came to a conclusion that the petitioner does not belong to Valmiki (ST) and gave its findings after thorough enquiry.
6. In view of the circumstances stated above, the Collector, E.G. District has conducted enquiry as per the provisions of the Act by giving sufficient opportunity and passed orders cancelling the caste certificate of the appellant.

III. During the course of hearing of the case, the Appellate Authority has observed/opined that;

1. During the course of hearing that the appellant submitted his arguments as per his grounds in appeal petition and have stated that the lower authority failed to consider the relevant documents of his father and mother and the school records and the genealogical tree of his ancestors and his relatives caste certificates and if the same may be consider that it can be concluded that he belongs to ST Community.
2. On verification of the documents and the grounds of appeal and Para wise remarks as well as the other documents and material available on the record it is noticed that entire record of the father of appellant ancestors and the genealogical tree of the ancestors and his relationship with other ST people clearly reveals that he belongs to Valmiki and came to a conclusion that the appellant belongs to ST community.
3. That taking consideration of the above and the material available on the record that it can be concluded that the lower authority failed to observe the finding of the concerned above and after careful examination of the appeal petition and the circumstances stated supra that in exercise of the powers conformed under the Act and the Rules, the appeal is hereby allowed filed by the appellant by upholding the appellant is Schedule Tribe (Valmiki) claim and the lower authority proceeding is to be Set-aside and accordingly the same is hereby set-aside.

7. Government, after careful examination of the Representation / appeal and in exercise of the powers conferred under Section 7(2) of A.P. (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (Act 16 of 1993), and rules made there under, hereby allow the Appeal Petition filed by Sri Bada Mohana Rao S/o Sankurudu and the Proceedings of the District Collector, East Godavari in Ref.C5 (M)/5257/94, dated: 09.03.2006 are hereby set-aside duly upholding the ST-Valmiki Community claim of the appellant.

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8. The District Collector, East Godavari is directed to take necessary consequential action in the matter, accordingly.

9. The records (REV-CSECOVC(MIS)/8/2017-SA(C5)-CLO-EG) containing pages (CF:1-336) received from the District Collector, East Godavari through in the reference 7th read above, are returned herewith in original to the District Collector, East Godavari and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

KANTILAL DANDE
SECRETARY TO GOVERNMENT

To
The Collector & District Magistrate, East Godavari at Kakinada.(w.e)
(With original records) (BY RPAD)

Sri Bada Mohan Rao, S/o Sankurudu,
Gondulu(V), Addateegala(M), East Godavari Dist.
Mob. No: 9494002319.

Copy to:
The OSD to Hon'ble Deputy CM(TW).
The PS to Secretary(TW).

// FORWARDED:: BY ORDER //

SECTION OFFICER